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Robert H. Jackson
Executive Director-
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Ex Parte

January 28, 1997

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

Re: *Telephone Number Portability,*
Further Notice of Proposed Rulemaking CC Docket No. 95-116

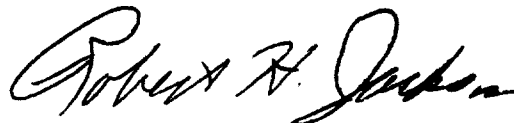
Dear Mr. Caton:

In a January 16, 1997, meeting between U S WEST and several members of the Common Carrier Bureau staff U S WEST was asked if any state Commission was considering directing U S WEST Communications ("USWC") to deploy local number portability in a method not consistent with the Federal Communications Commission ("FCC") order. We replied that state regulators in Colorado, Utah and Washington were considering requests to modify USWC's deployment schedule. We were asked if there were any documents that memorialize these deliberations.

Attached for inclusion in the record in this docket is a copy of a January 9, 1997, letter from Theresa Jensen, USWC to the executive secretary of the Washington Utilities and Transportation Commission. This letter notes that the Network Standards Subcommittee has recommended a modification of the FCC's number portability schedule by adding more central offices to be converted. Also, the letter states USWC's position that such additional deployment is not feasible and that modification of the FCC's schedule by several states would jeopardize USWC's ability to fulfill the FCC's requirements. In addition, the letter states USWC's position that the Telecommunications Act of 1996 gives the FCC exclusive jurisdiction over long-term number portability.

In accordance with 47 C.F.R. § 1.1206(a)(1) of Commission's rules, the original of this letter and one copy are being filed with your office. Acknowledgment and date of receipt are requested. A duplicate of this letter is included for this purpose.

Sincerely,



Attachments

No. of Copies rec'd
List ABCDE

021

cc: Regina Keeney
Lloyd Colling
Linda Kinney
Carol Matthey
James Schlichting
Don Stockdale
Steven Teplitz

Chris Barnekov
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Theresa Jensen
Director
Regulatory Affairs



January 9, 1997

Mr. Steve McLellan
Executive Secretary
Washington Utilities and
Transportation Commission
1300 S. Evergreen Park Drive S. W.
P. O. Box 47250
Olympia, Washington 98504-7250

Re: Request for Approval of Recommendation of the Network
Standards Subcommittee in WECA Docket 95-02

Dear Mr. McLellan:

U S WEST Communications, Inc. (USWC) would like to file additional comments concerning the WECA Request for Approval of an Implementation Plan to be used in the state of Washington for local number portability.

- WECA correctly stated USWC's position at page three of its request:

"It must be noted that US WEST does not agree with this recommendation. US WEST believes that the only position it can maintain is to follow the FCC's mandated implementation schedule. Most of the industry agrees that the implementation schedule set out in the FCC's order is an aggressive schedule and will difficult to meet given resources of the companies and the vendors. US WEST is also concerned that many of the states may ask for additional switches to be included in the implementation plan. Currently Colorado and Utah are considering such requests. US WEST has indicated that other states are looking at the same process. If several states include additional switches for conversion, US WEST feels it will not be able to comply with the FCC's schedule."

USWC does not agree with the WECA recommendation for the following reasons:

I. U S WEST IS MOST CONCERNED ABOUT ITS ABILITY TO MEET
THE PROPOSED FCC DEPLOYMENT SCHEDULE

In its July 1996 Order, the FCC required USWC to deploy database portability in the ten most populous Metropolitan Statistical Areas (MSAs) in USWC's serving territory over the 15-month period from October 1, 1997 through December 31, 1998. The FCC further directed USWC to complete this conversion according to a specified schedule, beginning with its most populous MSA and thereafter completing additional MSAs in descending order. Following is the schedule prescribed by the FCC for USWC (FCC Order at para. 77):

<u>Deadline</u>	<u>MSA (national ranking by size)</u>
4Q97	Minneapolis (12)
1Q98	Phoenix (17) Seattle (22)
2Q98	Denver (26) Portland(27)
3Q98	Salt Lake City (45) Tucson (71)
4Q98	Omaha (75) Albuquerque (76) Tacoma (77)

These ten MSAs encompass 405 USWC switches serving over 6.6 million customer lines. Importantly, although the current FCC schedule directs USWC to begin using number portability with live traffic only eight months from now, none of the necessary generic and feature software has been developed (much less tested) and none of the necessary databases have been deployed (much less tested). Similarly, an administrator for the indispensable service management system has not even been selected.

Following this initial deployment scheduled, USWC must "make long-term number portability available in smaller MSAs within six months after a specific request by another telecommunications carrier in the areas in which the requesting carrier is operating or plans to operate." (FCC Order at para. 80.) The FCC has given USWC no flexibility in changing this schedule. However, the FCC did delegate to the Chief of its Common Carrier Bureau "the authority to waive or stay any of the dates in the implementation schedule, as the Chief determines is necessary to ensure the efficient development of number portability, for a period not to exceed 9 months (i.e. no later than September 30, 1999" (FCC Order at para. 85). Numerous parties have

petitioned the FCC to change its schedule (in ways too numerous to summarize), and the FCC expects to issue an order following reconsideration early this year.

Harvey A. Plummer, USWC's Vice-President of Capacity Provisioning, filed an affidavit in USWC's response to its Petition for Reconsideration in the FCC Number Portability rule making (CC Docket No. 95-116 - Aug. 2, 1996). His declaration states that number portability represents:

"the largest and the most complex change ever made to the public switched telecommunications network (PSTN). Number portability requires the purchase now, and the deployment and use within one year, of new hardware and software that does not now exist, including new end office, tandem, and operator services switch generics; the LRN feature number portability SCP software; local SMS software; and regional SMS software. Number portability, when implemented, will also change the way carriers route calls through the PSTN. In addition, the successful deployment of number portability will require most carriers, including USWC, to modify virtually all of their supporting ordering, provisioning, maintenance, repair, and billing systems. "

Mr. Plummer, based upon his extensive experience and his understanding of the FCC requirements, has concluded that the current FCC schedule "adds an unnecessary degree of risk to the continued reliability of the PSTN generally and USWC's network in particular". This is because, as Mr. Plummer documents in his affidavit, the FCC schedule "does not give vendors and their customer carriers sufficient time to conduct necessary testing". It was this concern for the continued reliability of its network that lead USWC to ask the FCC to extend its schedule by three months so all carriers would have six months (rather than three months) to convert their first MSA. (The FCC is still evaluating USWC's request.) Consumers and businesses will hardly enjoy the benefits of number portability if, because of its premature deployment, they are no longer able to complete even an ordinary call or if certain existing features are inexplicably disabled.

II. NUMBER PORTABILITY IMPLEMENTATION INVOLVES NOT ONLY LECS BUT ALSO EQUIPMENT VENDORS

Vendors will play a critical role in implementing number portability. Not only will vendors provide necessary components, they also are often involved in the installation and testing of their new equipment and software. The reality is the vendors, like carriers, have finite resources, and any national deployment schedule must accommodate the limited resources of the vendors. The FCC considered vendor availability in developing its schedule, and changes (particularly additions) to that schedule would like impact negatively the ability of vendors to support their carrier customers.

The FCC's schedule requires USWC to convert the Seattle MSA (and the Phoenix MSA) over the three-month period, January 1 through March 31, 1998. Three months earlier, USWC is scheduled to convert its most populous MSA, Minneapolis, over the three-month period, October 1 through December 31, 1997. USWC and others are urging the FCC to give carriers an additional three months to convert their first MSA so they have time to conduct adequate testing before the new system is converted to live traffic and before the system is used in other areas.

The work involved in converting a single MSA, especially for an incumbent LEC like USWC, is massive. The work involved in converting the first MSA (Minneapolis) will be especially challenging because so much of the work will be new. All carriers when implementing a new technology conduct what is known as a "first office application" or FOA. The purpose of this FOA is to test the technology to ensure that it works as promised and that it is compatible with existing services, capabilities, and systems. The conversion to number portability will be a complex undertaking. Among other things, a carrier must install new switch generics in every switch (e.g., 5E11 in 5ESS switches, 1AE13 in 1AESS switches; NA007 in DMS 100/200 switches); install the still unavailable number portability feature in each switch; often upgrade the processing capacity of the switch (and certain 1AESS switches require accelerated replacement); upgrade some switches to AIN capabilities; install number portability databases; and expand the capacity of its SS7 network to handle the additional queries that will be generated by number portability.

In addition, a carrier must modify virtually every one of its supporting ordering, provisioning, maintenance, repair, and billing systems. Once all this installation work is completed, the individual components must be tested and then, the system as a whole must be tested. Testing inevitably discovers "bugs" which must be corrected before the new system is used to support live customer traffic.

III. THE FEDERAL ACT GAVE THE FCC EXCLUSIVE JURISDICTION OVER NUMBER PORTABILITY. THUS, STATE COMMISSIONS HAVE NO AUTHORITY TO CHANGE THE FCC IMPLEMENTATION SCHEDULE.

Under federal law, state commissions do not have the authority to change the FCC's implementation schedule either directly or indirectly. Notwithstanding the fact that several states enacted state statutes pre-dating the Act that required the implementation of number portability, there is nothing in the Telecommunications Act of 1996 suggesting that Congress intended dual regulation of number portability. Likewise, there is nothing in the FCC's number portability order suggesting the FCC intended to delegate some of its number portability jurisdiction to the States even assuming the FCC could do so.

The Telecommunication Act of 1996 obligated local exchange carriers (LECs) to provide number portability in accordance with the requirements prescribed by the FCC. Section 251(b)(3) provides unequivocally that "[e]ach local exchange carrier has the following duties:

- (2) The duty to provide, to the extent technically feasible, number portability in accordance with the requirements prescribed by the [Federal Communications] Commission" (emphasis added).

On July 2, 1996, the FCC issued its First Report and Order and Further Notice of Proposed Rulemaking in Docket No. 95-116. *In the Matter of Telephone Number Portability*, CC Docket No. 95-116, RM 8535, Decision No. 96-286 (July 2, 1996). In this Order, the FCC promulgated rules to implement the congressional mandates regarding number portability contained in the Act. LECs were directed to implement data base number portability pursuant to the FCC's performance standards in the 100 largest Metropolitan Statistical Areas (MSAs) by December 31, 1998 according to an FCC prescribed implementation schedule. FCC Order at para. 3. The FCC stated with respect to its authority (FCC Order at para 36):

"We believe that Congress has determined that this Commission should develop a national number portability policy and has specifically directed us to prescribe the requirements that all local exchange carriers, both incumbents and others, must meet to satisfy their statutory obligations ... Consistent with the role assigned to the Commission by the 1996 Act, the record developed in this proceeding overwhelmingly indicates that the Commission should take a leadership role with respect to number portability. We, therefore, affirm our conclusion that we should take a leadership role in determining a national number portability policy. "

The FCC established a specific implementation schedule (FCC Order at para. 77-85). Significantly, unlike other portions of the FCC's Order, the section regarding implementation of permanent number portability gave state regulators no authority to modify the FCC-directed implementation schedule. This Commission (or any other state commission for that matter) does not have the authority to change the FCC's number portability implementation schedule. The FCC's Order did not give industry members (or state commissions) the discretion to decide which offices should be converted and which need not be converted. Rather, the FCC's Order directs all LECs to convert all offices within specified MSAs within a specified time.

If the WECA Subcommittee believes their position has merit , they should take their position to the FCC. It is understandable that carriers, and even this Commission, would like to see a more rapid deployment of

number portability capability. In an ideal world, number portability would be introduced tomorrow, throughout the country. But the reality is that vendors have finite resources and carriers (including new entrants) have finite resources. The FCC considered these limitations in its still very aggressive conversion schedule. If a carrier truly believes that the FCC's schedule is unacceptable, it should take its complaint to the FCC. It is, after all, the FCC's schedule.

The FCC's nationwide schedule was also heavily influenced by the capability of switch vendors to make switch software and their other resources available to carriers. For carriers to meet the FCC's schedule, switch vendors must collectively upgrade their switch software at a total rate of 53 switches per week (FCC Order at para. 77). Indeed, the FCC noted that its aggressive schedule depends directly upon the accuracy of those estimates [by switch vendors] and the absence of any significant technical problems in deployment (FCC Order at para. 78).

Indeed, state intervention at this point would likely upset the delicate balance the FCC sought to achieve in developing its national deployment schedule. For example, the FCC rejected as being unworkable proposals either for a single, simultaneous conversion (like 800 database) or for the conversion of number portability in multiple large MSAs at the same time (FCC Order at para. 81). The FCC explained that the phased approach it adopted would ease the burden on carriers by limiting the number of MSAs in which implementation is required during a particular calendar quarter, and would avoid the potential strain on vendors caused by implementation in all the largest 100 MSAs on or around a single date, as well as help to safeguard the integrity of the public switched telephone network.

IV. OLYMPIA WHITEHALL, LACEY, BELLINGHAM REGENT, SPOKANE RIVERSIDE, SPOKANE WALNUT, SPOKANE FAIRFAX AND YAKIMA CHESTNUT CANNOT BE CONVERTED BY JANUARY 1, 1999, BUT CONVERSION BY JUNE 1, 1999 MAY BE POSSIBLE.

The WECA Subcommittee proposes that USWC convert the above offices by January 1, 1999; conversion of these MSAs by January 1, 1999 is not feasible. USWC cannot commence conversion of these MSAs before January 1, 1999 because during the 15-month period prior to that date USWC will be busy converting its 10 most populous MSAs which include 405 switches and 6.6 million customer access lines including Albuquerque, Omaha, and Tacoma during the fourth quarter of 1998. Nor can USWC guarantee completion of these eight MSAs by March 31, 1999. This is because, under the FCC's Order, USWC must be in a position to convert other switches in other areas in other states within six months of a bona fide request. Put in another way, USWC (and its vendors) will have finite resources to meet the FCC

prescribed implementation directives across its fourteen state region. Remembering that carriers nationwide will be competing with each other to obtain the same software and other components, USWC does not believe at this time that it can acquire the software and equipment necessary to convert Olympia Whitehall, Lacey, Bellingham Regent, Spokane Riverside, Spokane Walnut, Spokane Fairfax and Yakima Chestnut.

USWC does believe that it may be able to complete conversion of these eight MSAs by June 1, 1999. If USWC later discovers that resources are a problem and that conversion of any of these eight MSAs may be problematic, it will notify this Commission and the industry of this fact no later than August 1, 1998.

V. SUMMARY

This Commission should reject proposals to change the FCC's implementation schedule. If any party has a problem with the FCC's schedule, that party should be directed to raise that problem with the FCC directly. The Commission should not adopt the WECA Subcommittee implementation plan proposal.

I can be reached at 206-345-4726 with any questions you may have.

Sincerely,

Theresa A. Jensen

cc: Rob McMillin
Craig Phillips
John Prusia
David Griffith
Docket Participants